

DATE ISSUED: July 7, 2004 REPORT NO. CCDC-04-25

ATTENTION: Chair and Members of the Redevelopment Agency
Docket of July 13, 2004

SUBJECT: Proposed First Amendment to Exclusive Negotiation Agreement with
One America Second Phase PT, LLC for the Agency-Owned "Air
Rights Parcel" (Parcel 5) (Block Bounded by B, C, India and Kettner)
– Columbia Sub Area of the Centre City Redevelopment Project

REFERENCE: Site Map
Proposed First Amendment to Exclusive Negotiation Agreement

STAFF CONTACT: Pamela M. Hamilton, Senior Vice President

SUMMARY

Issue - Should the Redevelopment Agency approve the First Amendment to Exclusive Negotiation Agreement with One America Second Phase PT, LLC?

Staff Recommendation - That the Redevelopment Agency approve the First Amendment to Exclusive Negotiation Agreement ("First Amendment") with One America Second Phase, LLC, a Delaware limited liability company whose sole member is General Electric Pension Trust ("Developer") for the purchase and development of the Agency-owned "Air Rights Parcel" ("Parcel 5") on the block bounded by B, C, Kettner and India streets.

Centre City Development Corporation (CCDC) Recommendation - The CCDC Board of Directors voted to recommend approval of the First Amendment at its meeting of June 23, 2004 (Sadler, LeSar, Dillon and Rafflesberger in favor).

Other Recommendations - None.

Fiscal Impact - The Agency purchased the subject property in 1996 for a price of \$2.2 million and has incurred significant costs in holding and maintaining the property since that time. The property is subject to on-going America Plaza Owners Association ("Association") fees. An Exclusive Negotiation Agreement ("ENA") for purchase and development of Parcel 5 was entered into with the Developer in July, 2003. That ENA reduced the Agency's participation in Association fees from 30% to 10% from January 15, 2003 through the later of the ENA's 300-day period of

negotiations, or any extension of the period of negotiations. Accordingly, the proposed First Amendment extends the period of the Agency's payment of 10% of Association fees to at least January 1, 2005 (and up to 60 days longer if a Disposition and Development Agreement ("DDA") has been executed by the Developer and is being processed for Agency approval). The First Amendment provides that if a DDA is executed by the parties, the Agency's liability for Association fees is reduced to 0% during the term of the DDA. Other provisions of the proposed First Amendment also have fiscal impact to the Agency and are discussed below.

BACKGROUND

Development of this block would advance the Visions and Goals of the Centre City Community Plan and the Objectives of the Centre City Redevelopment Project by:

- Completing development which is immediately adjacent to a safe, efficient and environmentally sensitive transportation system thereby increasing mass transit use (San Diego Trolley),
- Assisting in the development of a strong financial/commercial core, and
- Completing the orderly development of the originally-conceived 2-block integrated America Plaza development to upgrade the quality of life.

The Agency purchased Parcel 5 of the two-block development generally known as America Plaza for redevelopment purposes as the site for the New Main Library (see Site Map). Parcel 5 is an "air-rights parcel" on the block bounded by B, C, Kettner and India streets which includes an easement in the garage beneath the parcel for 113 parking spaces. Parcel 5 carries an FAR of 8 which limits the gross square footage of development above grade to less than 522,368 SF; the minimum height is 125'.

The Developer purchased the other parcels which comprise the two-block America Plaza development on November 27, 2002. The Developer expressed interest in purchase and development of Parcel 5 in that Parcel 5 continues to have a negative impact on the appearance and activity/synergy of the overall America Plaza development.

The ENA entered into with the Developer in July, 2003 was recommended (rather than the issuance of a general Request for Qualifications/Proposals for Parcel 5) for these reasons:

- Exclusive negotiations with the Developer had the potential of realizing the earliest and highest quality development of the Site.

- The development of Parcel 5 is integral to the existing development on the two blocks. The Developer, as the Tower and Parking Owner on the two blocks, has certain design approval rights for Parcel 5. As Tower and Parking Owner, the Developer has the ability to propose revisions to the CC&Rs, and to offer use of the parking garage which go beyond the existing CC&Rs, to the advantage of Parcel 5.
- Parcel 5's construction will require close coordination with, and construction easements from, the Tower and Parking Owner. Such coordination is facilitated if the Tower and Parking Owner is the developer of Parcel 5.
- The Manager of One America Plaza, Sentre Partners, has demonstrated through its excellent management of major office buildings downtown that it understands "place-making." This approach to the development of Parcel 5 would benefit not only the immediate vicinity but the entire Columbia Sub Area.

During the term of the ENA, the Developer has made progress with respect to its due diligence regarding the development potential of Parcel 5, but a definitive development proposal is not expected until August. The reasons for entering into the ENA with the Developer remain true today. A First Amendment to ENA is recommended which will extend the period of negotiations and provide certain financial incentives to the Agency for doing so.

PROPOSED DEVELOPMENT TEAM

ROLE/FIRM	CONTACT	OWNED BY
Property Owner: One America Plaza PT, LLC	B. Bradford Barrett, President	General Electric Pension Trust
Developer: One America Plaza PT, LLC, or entity to be formed by Member of One America Plaza PT, LLC	B. Bradford Barrett, President	General Electric Pension Trust
Project Manager: Sentre Partners, Inc.	Stephen B. Williams Matthew T. Spathas	Stephen B. Williams Matthew T. Spathas Michael P. Peckham

TERMS OF THE EXISTING ENA

- The ENA provides for the exploration of a wide range of development alternatives during the period of negotiations. There are many complexities about the Site, particularly parking and structural issues which must be examined and addressed.
- The ENA provides for the Developer's submission of all due diligence materials to the Agency and, should negotiations not result in a DDA between the Agency and the Developer, the Agency may use the information provided by the Developer in any way deemed by the Agency to be of benefit.
- The ENA requires that the 30% participation by Parcel 5 in the Association fees be reduced to 10% from January 15, 2003 through the period of negotiations, including any extensions to the negotiation period. In addition, the ENA required a \$100,000 Good Faith Deposit by the Developer to ensure that the Developer would proceed diligently and in good faith to negotiate and perform all of the Developer's obligations under the ENA.

TERMS OF THE PROPOSED FIRST AMENDMENT

- The period of negotiations is extended to January 1, 2005, plus up to 60 days longer if a DDA has been executed by the Developer and is being processed for Agency approval.
- The period of the Agency's reduction of Association fees to 10% is extended to at least January 1, 2005 (and up to 60 days longer if a DDA has been executed by the Developer and is being processed for Agency approval).
- Interim submittals are required of the Developer during the period of negotiations:
 - The architectural program, site plan, floorplate and elevation studies; building sections and preliminary structural and HVAC analysis are due by August 20, 2004; and
 - The schematic submittal package including parking, presentation drawings, a cost analysis and project proforma, and a complete Centre City Development Permit application, are due by October 20, 2004.
- Any DDA negotiated for Parcel 5 shall require a purchase price of not less than the Agency's actual out-of-pocket costs (excluding general overhead) attributable to Parcel 5.

- If the Negotiation Agreement has not been terminated but the DDA has not been executed by the parties by the following dates, the Agency will retain all or a portion of the Developer's \$100,000 Good Faith Deposit on the following schedule:
 - If not by November 1, 2004, Agency retains \$20,000
 - If not by December 1, 2004, Agency retains \$20,000
 - If not by January 1, 2005, Agency retains \$20,000
 - If not by February 1, 2005, Agency retains \$20,000
 - If not by March 1, 2005, Agency retains \$20,000

The purpose of this "continuing option" payment is to provide an incentive for negotiations to conclude as rapidly as possible, either to a DDA or to a termination of the Negotiation Agreement, to permit the Agency to seek other alternatives to development of Parcel 5 if a DDA is not feasible with the Developer.

- The First Amendment also resolves a payment dispute with regard to the Association's request that the Agency pay costs totaling \$72,585 incurred by the Association for the mold remediation and restoration work performed on Stairwells 4H and 8H at America Plaza. The First Amendment rescinds such request and the Agency shall not be liable for such costs.

SUMMARY/CONCLUSION

Given the complexities of Parcel 5's integration with the 2-block One America Plaza development, continuing negotiations with the owner of One America Plaza, particularly in light of the qualifications of the owner and its asset manager, holds the most promise for the appropriate and timely sale and development of Parcel 5.

Respectfully submitted,

Concurred by,

Pamela M. Hamilton
Senior Vice President

Peter J. Hall, President

Attachments: Site Map

Proposed First Amendment to Exclusive Negotiation Agreement